

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - SPECIAL SESSION COMMITTEE ON TAXATION

Call to Order: By **CHAIR BOB STORY**, on August 5, 2002 at 8:00 A.M., in Room 137 Capitol.

ROLL CALL

Members Present:

Rep. Bob Story, Chair (R)
Rep. Ron Erickson, Vice Chair (D)
Rep. Roger Somerville, Vice Chair (R)
Rep. Joan Andersen (R)
Rep. Keith Bales (R)
Rep. Joe Balyeat (R)
Rep. Gary Branae (D)
Rep. Eileen J. Carney (D)
Rep. Larry Cyr (D)
Rep. Rick Dale (R)
Rep. Ronald Devlin (R)
Rep. John Esp (R)
Rep. Gary Forrester (D)
Rep. Daniel Fuchs (R)
Rep. Verdell Jackson (R)
Rep. Jesse Laslovich (D)
Rep. Trudi Schmidt (D)
Rep. Butch Waddill (R)
Rep. Karl Waitschies (R)
Rep. David E. Wanzenried (D)

Members Excused: None.

Members Absent: None.

Staff Present: Jeff Martin, Legislative Branch
Pam Schindler, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB18, HB11, HB17, 7/29/2002
Executive Action: HB18-Do Pass as Amended
HB11-Tabled, HB17-Tabled

Chairman Story welcomed the Committee members to the session.

Chairman Story also introduced a person from the audience that wanted to speak to the Committee as a whole regarding the work they were to do. The Committee debated the propriety regarding this person speaking, subject matter, time limitations, etc. Mr. Robert Holmes, a former minister from Helena, Mt. He spoke of "no capitalism without a conscience". "No taxation without character and moral priorities". He opined that the "free ride" was over and that this body needed to raise taxes; impose a graduated income tax.

{Tape : 1; Side : A; Approx. Time Counter : 0 - 100}

HEARING ON HB-11

Sponsor:

Rep. Haines-HD25-Missoula, Montana: This is an "bill reducing the general fund shortfall in revenue by revising the distribution of federal mineral leasing funds; amending section 17-3-240, MCA; and providing an immediate effective date." This is a short term process, after 2006 it will go back to the existing laws.

Proponents:

Chuck Swysgood-State of Montana, Director Budget and Planning. Takes cap off of 2003. Anything over \$24M revenue estimate to go to the counties. Anything under goes to the general fund. 5%,10% and continues. Slows down the amount going to the counties.

Opponents:

Willie Duffield-County Commissioner from Fallon County, Mt. Assoc. of Oil, Gas and Coal Co's. Amazes me that we're here 15mos. after HB226 passed the house 97-2, Senate 33-17 and we're already trying to change it. Do not think there will be any revenue in 2003 over that estimate. Consider taking this bill out of this session and should be in 2003. Bigger fish to fry in budget cuts than this little bill.

Vicky Steiner-Mt. Assoc. of Oil, Gas and Coal Co's. N.Dakota, Assoc. of Oil Gas and Coal. North Dakota is now receiving 30% of state's share, it was graduated similar to Mt.

EXHIBIT(tah01a0

1)

Montana has best coal reserve in nation. Montana counties have never received money from Federal Royalty money. This bill does not belong in this session, should be heard in 2003.

Richard Dunbar-Phillips County, lives in the middle of a gas field, 70% of royalties that come out of this field is federal govt. Phillips County lives without any compensation for 30 years. This bill will take money away from counties. Need to look at this in 2003.

Bob Gilbert-Mt. Assoc. of Oil, Gas and Coal Counties -talking about imaginary money. There have been 10 special sessions. Projecting budget management in 2003.

Dean Harmon-Roosevelt County Commissioner, member of Mt. Oil, Gas and Coal Counties. Everyone will need to sacrifice in order to meet the mandate of this special session. Little effect on balanced budget.

Chad Fenner-County Commissioner-Bighorn County - Bighorn county ranked top 100 poorest counties in the nation. \$10.7M taken from county.

{Tape : 1; Side : A; Approx. Time Counter : 100 - 388}

Informational Testimony:

Dan Dodds-Dept. of Revenue -will answer questions.

Willie Duffield-Mt. Assoc of Oil, Gas and Coal-Fed. mineral royalty revenue will be distributed in the state of Montana.

Questions from Committee Members and Responses:

Rep. Carney to Duffield -In your county what are some of the impacts on oil and gas leases? **Mr. Duffield** -most drilling is on Federal land. Counties impacted by road damage, bridge damages from the heavy equipment, etc. Huge impact on counties. When production starts and when you get the revenues. **Rep. Carney-Duffield** -Are schools impacted? Counties pick up the costs? **Mr. Duffield** -it would depend on when the drilling is done. If summer time, schools are not open. Oil royalties would offset those expenses. **Rep. Carney to Duffield** -Have you already budgeted money from the 2002 session. **Mr. Duffield** -Do not anticipate any money over caps. Every year the oil and gas is declining. **Rep. Carney-Duffield** -It is my understanding that you never received any money from the federal govt. for the impacts on your county. The state has taken all the money? **Mr. Duffield** -That is correct.

{Tape : 1; Side : A; Approx. Time Counter : 388 - 506}

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Rep. Wanzenreid to Swysgood -Why this bill proposes to extend the "take away" into next biennium? **Mr. Swysgood** -Number of proposals to address this shortfall, and next biennium. **Rep.**

Wanzenreid to Swysgood -Does this fall outside the "scope of the call"? **Mr. Swysgood** -I have not been notified if "outside of the call". **Rep. Wanzenreid to Swysgood** -Total impact over 3 yrs. is \$6.2M? Decline of revenue. **Mr. Swysgood** -All I know is state is facing a structural imbalance if \$220M to \$250M over next biennium. **Rep. Wanzenreid to Swysgood** -Result in a property tax increase at the local levels? **Mr. Swysgood** - Not that I am aware of.

Rep. Bales to Swysgood -Years past, without settlement, royalties have not been over \$20M, yet here you are predicting revenues \$21.738M, what based on? **Mr. Swysgood** -Figure given by DOR based on increased production and higher prices. **Rep. Bales to Swysgood** - Can you explain what those are? Here on the 30th, what was last year, down to \$19.772M, also gave chart of gas prices and they are going down, production is also down, how do you get those figures. **Swysgood** - Defer to **Dan Dodds of DOR**. **Mr. Dodds** - In revising our estimates, looked at a number of things. I called several all the coal companies and asked them to update the production estimates, also look at Oil and gas production, and what happened to Oil and gas prices. Coal production for next has not changed much. Twice as much Oil and gas drilling last year. Oil and gas prices higher. **Rep. Bales to Dodds** - Fiscal 2002-\$21.756M estimate, and yet came in at \$19.772M. Gas prices higher than estimate. So did not make the budget estimate. You say that you will beat budget estimate this fiscal year. **Mr. Dodds** -Reason for revenues lower this year is lower coal production on federal land. **Rep. Bales to Dodds** -Would the same apply on coal production this year? **Mr. Dodds** -has not been a big expansion. Fiscal year 2002 going back to what was anticipated. **Rep. Bales to Dodds** -If we pass this bill, will 2003? Then is it a recommendation to go back and adjust revenue estimate in 2003. **Chairman Story**, responds-Bills adds or subtracts from the revenue estimate, you don't adjust, the bill automatically adjusts the ending fund balance, that's the tally sheet that comes out at the end of the process.

Rep. Erickson to Gilbert -Add on tax increase; on gambling and cigarette tax. Should we throw those out, if we don't take it from here from somewhere else? **Mr. Gilbert** -If it effects 100% of people, we should not ask 15% to solve the problem. Go where the problem is, that's the General Fund. Do not like new taxes, cuts should be made evenly to all people. \$1.3M is not there.

Rep. Fuchs to Gilbert -What are your amendments? **Mr. Gilbert** - Line 17, line 18, line 19, line 19. What amendment will do is put back to what was said in 2002. Also amend cap from \$24M to \$21M.

{Tape : 1; Side : B; Approx. Time Counter : 0 - 218}

Rep. Forrester to **Duffield** -High probability a lawsuit would be filed re: HB11 goes through, you will be back with lawyers and settle in court? **Mr. Duffield** -Do not like to talk about lawsuit. Hoping this bill will be taken out of special session; if it does go through, this will give our lawsuit more credibility.

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Rep. Schmidt to **Duffield** -42 counties are effected by this bill, that means 14 counties that I represent, what 14 counties are they? **Mr. Duffield** - Mostly timber counties. **Rep. Schmidt** to **Duffield**-You mean the western third? **Mr. Duffield** -Will supply that info. **Rep. Schmidt** to **Duffield** -Who carried the bill last time? **Mr. Duffield** -Rep. Bales. **Rep. Schmidt** to **Swysgood** - clarification-You said counties weren't effected? **Mr. Swysgood** - no I didn't. **Rep. Schmidt** to **Swysgood** -What did you say? **Mr. Swysgood** -Would there be a tax increase and I said not that I am aware of.

Rep. Carney to **Ms. Steiner** -That the federal law was supposed to go to people impacted by drilling. **Ms. Steinbeck** -State may direct to give priority to those impacted.

Rep. Lasolovich to **Haines** -**Dir. Swysgood** - Not aware of any property tax increase. **Rep. Haines** -I have no knowledge. **Rep. Lasolovich** to **Swysgood** -Counties are already strapped. \$1.2M lost, where will they get the money? **Mr. Swysgood** -Number of options-cap on mill levies, get along through money received by other revenues. **Rep. Story** to **Duffield** -Potential tax increase-**Swysgood** said none he is aware of, no one has budgeted this money because they are aware of it. **Mr. Duffield** - Unanticipated revenue. **Rep. Story** to **Swysgood** -Ending fund balance-technical question-revenue estimate of \$20.774M. Base number that LFD keeps their status sheet. If bill passes how will it create any money for the general fund. **Mr. Swysgood** - If this bill passes, then revenue estimates will need to be increased. **Rep. Story** to **Swysgood** -If it passes will it be increased by the \$4M, that the bill puts in the base? **Mr. Swysgood** -2003-\$20.474 to \$21.744 (?). There is no cap on this money, only cap is in 2003. 2004 and 2005 no cap. **Rep. Story** to **Swysgood** -F.N. shows general fund increase of \$1.2M in 2003, but that will not go through unless amend. to HJR1 to put the money in there. **Mr. Swysgood** - That's how you account for the revenue corrected by analyst, fiscal note fund balances are added to revenues.

Rep. Bales to **Rep. Story**, Then if HB 11 passes; automatically goes in? **Rep. Story** -correct.

Closing by Sponsor:

Rep. Haines-This is tough situation. Where to resolve it; state needs general fund money. This one might not be so bad, this may be an easier cut.

{Tape : 1; Side : B; Approx. Time Counter : 218 - 481}

HEARING ON HB18**Sponsor:**

Rep. Story-HD 24-Park City, Montana

This is a clean-up bill from HB 124 from 2002 session. Revenue streams related to that. Restructured state funding process to local funding. HB124-made it through the house, the senate killed it and turned to reimbursement bill, then to conference committee then restructured into original form and at 11th house passed. - In drafting process, mistakes were made. Growth factor was to be-2.3% counties, 2.65% consolidated, cities-3%. Ended up being 3% straight across. 1st year of bill all governments were given a growth factor of 3%. This changes in 2003, everyone is at the base of where they were to be at. cities-3%, counties-1.61%, consolidated. by some factor also. Also places in law where conflicts- this to be cleaned up. Vehicle revenues-estimated 93.something%, subsequently, revenues has come in, compare to base, flat tax collects less. Purpose of bill was to give local governments and schools the amount they had received from vehicles. Adjust percentage down from 93% to 88.6%. Fees not picked up. Local option tax put on a vehicle is a local money. Some counties underpaid in 2002. Others overpaid. Bill funded on an biennium. Fluctuations in local mill levies. Fees that weren't picked for the general fund, need to be averaged out.

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{Tape : 2; Side : A; Approx. Time Counter : 0 - 155}

Proponents:

Chuck Swysgood-State of Montana, Director of Budget and Planning
Refer questions to Dept. of Revenue.

Alec Hansen-Montana Leagues of Cities and Towns-today speaking for Bozeman and Butte. Growth for cities was set at 3%. Consolidated was 2.65%. Butte expected base year reimbursements would be adjust up to 2.65% going forward, they budgeted under

that assumption. Butte-Silverbow was getting overpaid by .35%. Butte was reimbursed at 3%, and will be reimbursed at 2.3% in the next year equaling out to 3%. They support the bill. Section 32 directly effects the cities. Bozeman received gambling check in July 2001, they accrued that in the previous fiscal year. Bozeman in calculating the base only was credited with 3/4 of the gambling revenue at a loss of \$220K. Bozeman has a different accounting method than the rest of Montana. HB 18 makes things consistent.

Dean Harmon-Montana Association of Counties-Knew from last session that clean-up was necessary. Local option tax left alone. Counties will remain whole as was the intent of HB 124.

Joe Mazurek-attorney, lobbyist for City of Great Falls. Great Falls believes reimbursement scheme is working.

Harold Blattie-Mt. Association of Counties -Working with the Legislative Council , there are some additional amendments that need to be included.

Mary Phippen-Mt. Association of District Court Clerks -there is some language in the bill that need to be amended regarding section 5.

{Tape : 2; Side : A; Approx. Time Counter : 155 - 300}

Opponents:

Tom Billedeau-MEA/MFT-HB 124, noted final numbers were hard coded into the bill. What is now proposed will eliminate \$200K elementary retirement funding, about \$.9M high school funding; loss for \$1.1M. 1/2 will be paid for by local property taxpayers. Transportation-\$200K loss-will also be paid by local taxpayers.

Informational Testimony:

None

{Tape : 2; Side : A; Approx. Time Counter : 300 - 348}

Questions from Committee Members and Responses:

Rep. Carney to Rep. Story-Page 37, line 10-Lincoln County loses transportation money by 1/2? **Rep. Story**-No. They get the same proportion per year. Lincoln County in school transportation, should get \$50K, estimate, County Treasurer actually received was less than \$25K, in 2002 they got \$50K, then they should have adjusted. They got all their money in their first year. **Rep.**

Carney to Rep. Story-Lincoln should raise their mills? **Rep. Story**-Transportation and retirement are not voted by mill levy; they are voted by County Commissioners.

Rep. Wanzenreid-Rep. Story-Looking at last page of fiscal note. Obligation to block grants. Ongoing decline in \$600K over time? School funding is different. Should ask OPI to explain. **Rep.**

Wanzenreid-Rep. Story-Would you agree that there a property tax increase with the passage of this bill totaling \$1.2M in this fiscal year? **Rep. Story**-Agrees there will be a property tax increase, don't know the amount, maybe more. There should have a tax decrease, which would then balance it out. **Rep. Wanzenreid** to **Rep. Story**-Because of the mistakes of the legislature, there will be tax increases. On an ongoing basis, what should have be given in the 1st place. There will be a property tax increase this year. **Rep. Story**-I would assume there could be.

{Tape : 2; Side : A; Approx. Time Counter : 348 - 510}

{Tape : 2; Side : B; Approx. Time Counter : 0}

Rep. Forrester to **Rep. Story**-When take money out of HB 124 and put into general fund; it effects all local entities. **Rep. Story**-The changes in HB 124 will effect every taxing jurisdiction in the State of Montana. Some increases, some decreases. **Rep. Forrester** to **Rep. Story**-Tell us how much the counties were compensated? Tell how much did they loose? **Rep. Story**-Amount on the fiscal note. Defer to **Brad Simshaw -DOR. Brad Simshaw** - explains hand-out re: growth rate decrease. Proposal vs. intended. Where we will be in FY 2004. **Rep. Forrester** to **Rep. Story**-Companion bill funded District Courts. Outside scope of this bill-update? Counties pick it up for 1 more year when this is done? **Rep. Story**-Companion bills, couple of sections in this bill work with District Court. State took over Districts as of the 1st July 2002. Should have taken over July, 2001. some "shenanigans" with money regarding raises. Section 28 page 38 \$18.389M- \$70K- higher; General Fund will be \$70K short. **Rep. Forrester** to **Rep. Story**-Why are we not going back and correcting "shenanigans" as well. **Rep. Story**-There is a clause in SB176 that we wouldn't mess with that. **Rep. Balyeat** to **Rep. Story**-How does this effect local property taxes? non-voted levies; retirement and transportation, is that called "permissive levies? Do local governments have to raise property taxes, mandated? At their discretion. **Rep. Story**-They don't have to; but what they need to do is fund operating responsibilities. Generate revenue from property taxes or money taken from general reserves. **Rep. Balyeat** to **Rep. Story**- Is there a 3rd way to do it? **Rep. Story**-They could make adjusts in transportation costs. **Rep. Balyeat** to **Rep. Story**-Who makes this decision? **Rep. Story**-County Commissioners. **Rep. Balyeat** to **Rep. Story**-If they choose 1 of those 3 options, that this is a technical correction, it's not forcing a tax increase, because they were overpaid in the first biennium. They'll set their mills for the biennium. **Rep. Story**-

Gap is widened a little bit. Every county is different. Mill increase to any individual should not be great.

Rep. Schmidt to **Billedeau** -Comment on the money that could be extracted from reserves. How many counties have reserves? **Mr.**

Billedeau -Some counties have money in reserves. Majority of counties do not have sizeable reserves. Have to build up reserves to pay contributions. Cut people, cut personnel, cut transportation costs. Districts make decisions to cut; if not Counties then face tax issues.

Rep. Erickson to **Billedeau** -This bill would correct mistake. Not the biennium. What's this bill going to do 3,4,5 years down the road? What's this bill going to do to the general educational community. **Mr. Billedeau** -Schools/Counties starting from a small base. Less reimbursements. HB124 made a lot of estimates/guesses. Long term-decreases in funding.

{Tape : 2; Side : B; Approx. Time Counter : 0 - 279}

Rep. Schmidt to **Billedeau** -What do you suggest for schools? **Mr.**

Billedeau -Just to this bill-schools remain at numbers already done-no reduction to HB 124.

Closing by Sponsor:

Rep. Story-2 amendments to be attached possibly just 1. As a whole to leave schools alone, that would be a good thing to do. But looking at the individual; counties and schools district, that is not necessarily the best. Some counties were overpaid and to perpetuate is not fair to other taxpayers. Base that is high to some, lower to others. Need to fix as the original bill intended. We over estimated in 2002 re: HB124.**EXHIBIT(tah01a04)**

{Tape : 2; Side : B; Approx. Time Counter : 279 - 387}

HEARING ON HB17

Sponsor:

Rep. Waddill-HD62-Florence, Montana

An act decreasing the video gambling machine tax on machines on a licensed premises having 5 or fewer machines and increasing the tax on machines on a licensed premises have six or more machines. Simple bill with significant impact financially. Businesses with 5 machines or less reduces tax from 15% to 10%, increases tax from 15% to 30% with 6 machines or greater. Fiscal Note: \$29.6M increase to the general Fund. Montana has lowest tax rate on video gaming devices. Alberta has 85% tax rate, Louisiana 22.5-

32.5% tax rate, Manitoba 80%, Oregon 65%, Saskatchewan 85% S. Dakota 50%. Common sense issue. Minimum daily requirement for gambling is not established. Is not a mandatory thing to do. It is a luxury item.

{Tape : 2; Side : B; Approx. Time Counter : 387 - 463}

{Tape : 3; Side : A; Approx. Time Counter : 0}

Proponents:

Gene Fenderson-Progressive Labor Caucus of Montana -in support, infusion of relief for the problems the state finds itself in today. Help small businesses in state. "Ma and Pa" bar owners in state. One thriving business in small towns are a gas station/gaming establishment. Dept. of Justice put together these numbers:

1-5 machines	\$6,180	revenue
6-10 machines	\$8,662	revenue
11-15 machines	\$10,305	revenue
16-20 machines	\$22,872	revenue

"Mom-Pop" operations are the centers of our communities. Larger casinos will do ok. Stabilize communities for small business people.

Opponents:

Mark Staples-attorney-Mt. Tavern Association -of which have approx. 800 of these small businesses. 1st blush would benefit from this. Divide and conquer in this situation is what people are looking for. 6-8 years ago, a similar bill, there is not guarantee to get this incentive, then right back up. 1989, there was a hodge-podge jurisdiction. 15% gross sales tax. Is not comparable to other states, the states bought their own equipment. 600M direct taxes to local and state governments. 80 combined property and machine taxes-\$80M. Has it stimulated small businesses? Yes. 22,000 employees, \$200M payroll, \$600M yearly purchased goods and services. Sales tax is very contentious. An industry that is paying 15% gross sales tax. Growth 1.1% in past year. Solutions need to be more broad based.

Rich Miller-Gaming Industry Association -No way to pass tax on to customers. Very select group of business owners. Net profit margin 8.5%. 1999 HB109 "dial-up" \$500 per machine. \$250 received tax credit for that. Costs for that has now gone to \$700-800. Problem gambling treatment. We do not feel we should bear the burden. If increases in taxes must be made, they should be broad based.

Bob Pavolovich-self-former tavern owner -Can not see paying 30%. We will have to get rid of machines. Already paid licensing fees through September. Will I get a rebate?

{Tape : 3; Side : A; Approx. Time Counter : 0 - 158}

Rhonda Carpenter-Mt. Coin Machine Operators Association -Cannot compare with other states/Canada gaming taxes. Wine/ alcohol taxes are different. Not Apples to Apples. Total revenue picture very skewed. Tax burden on 1200-1400 on small business only. Increases should be much more broadly based.

Informational Testimony:

None

Questions from Committee Members and Responses:

Rep. Bales to Miller -what is base on payout? **Mr. Miller** -\$2.00 bet and a \$800 payout. **Rep. Bales to Miller** - Is there anything in law with a percentage of payout? **Mr. Miller** -yes-minimum of 80%. **Rep. Bales to Rep. Waddill** -proliferation of sites-differentiate tax rate on number of machines. More places with less machines? **Rep. Waddill** -Do not have expertise; defer to **Mr. Huntington** -I do not know. We can not project what can happen. **Rep. Bales to Huntington** -Why would revenue go down to state and local governments? **Mr. Huntington** -2 sources of revenue 1.tax, 2.each machine \$200 permit fee. 1/2 of money goes to local governments the other half to go fund our division. Would no longer purchase as many permits if less machines. **Rep. Erickson to Huntington** -Fiscal Note? Accurate? Or "good guess"? **Mr. Huntington** -we worked with Dept. of Rev. Projections are good. Do not know how market will react. **Rep. Erickson to Huntington** -\$29M large amount of money, then later \$41-42M a year. \$230-252M structural imbalance later. If we pass this now, we would have some sense in a year? **Mr. Huntington** -Conjecture of how long it would take people to react. There may be changes rights away. Some people in the middle will wait. **Rep. Erickson to Huntington** -When **Mr. Fenderson** was up; he talked about the amount per machine when up over 20-30 machines, much higher revenue. Most of the revenue in from very large establishments. **Mr. Huntington**, that is true now; small casino's do not account for that much.

{Tape : 3; Side : A; Approx. Time Counter : 158 - 341}

Rep. Balyeat to Huntington -Concerned about the math; 80%minimum on these machines, and a 30% tax, that's 110%. **Mr. Huntington** - define gross revenue- put \$10 in machine and gets \$8 back.

Rep. Esp to Miller -Problem gambling program, how much do you spend? **Mr. Miller** -\$125K. **Rep. Esp. to Miller**-How much of that

was advertising? **Mr. Miller** -Donation to Mt. Council on gambling. Do not know how much was spent on treatment.

Rep. Waitschie to **Miller** -Most casinos operate on 8.5% margin, if on gross receipts tax, what is included? What would a 30% tax do to the margin? Where get figure? **Mr. Miller** -Bureau of Economic Resources- Mr. Polzin.

Rep. Schmidt to **Huntington** -Tax rate in Montana and the growth of gambling in Montana. **Mr. Huntington** -actual revenue has been increasing to about 4%yr. Number of machines decreasing; lost a substantial amount of money from the permit fees.

{Tape : 3; Side : A; Approx. Time Counter : 341 - 448}

{Tape : 3; Side : B; Approx. Time Counter : 30}

Rep. Schmidt to **Huntington** -Series of articles in Great Falls Tribune-showing number of places that have machines, please comment. **Mr. Huntington** -signage-advertising-perceived that there has been growth; number of establishments have stayed the same. Number of machines has decreased.

Rep. Fuchs to **Huntington** -Consideration in F.N. regarding standard payout is 89-93% not the 80% required. **Mr. Huntington** - yes.

Rep. Fuchs to **Huntington** -If bill passed, % would be lower-would impact revenues raised. **Mr. Huntington** -Dept. of Rev. prepared Fiscal Note. Defer to **Shane Burns**, Dept. of Rev. Tax Policy Analyst. I built the model. 2 main factors, how many establishments would drop to 5 machines or less. With those machines would they earn the same amount of income. **Rep. Fuchs** to **Burns** -Did not take into consideration the amount of payout to absorb the tax. **Mr. Burns** -no.

Rep. Balyeat to **Staples** -If establishments operate on an 8.5% margin, and tax is 15%; they would go in hole? **Mr. Staples** - Would have a significant impact, only one factor in your rate of return. Does not agree with **Mr. Miller**. **Rep. Balyeat** to **Staples** -Please walk us through the math? **Mr. Staples** -Just given report this morning; **Dr. Polzin** could do better. Businesses are competitive, so 8-12% is a good number. **Rep. Balyeat** to **Miller** - clarify the 8.5% margin; net margin? Gross profits on machines. 15% increase based on the net margin to 30% on machines (net income)will make businesses non-profitable. **Mr. Miller** -Many businesses will not wipe out, but many of them it will. Net margin \$88M which represents 8.5% margin. **Rep. Balyeat** to **Burns** -Did you consider that a lot of these businesses would go out of business. **Mr. Burns** -We did think about, but has no data on their costs of operating a business outside of taxes.

Rep. Story to **Huntington** -Do machine operators pay monthly or quarterly. **Mr. Huntington** -quarterly. **Rep. Story** to **Huntington** - When is the tax paid? **Mr. Huntington** -Early September. **Rep. Story** to **Huntington** -Impact is 1/2 revenue? 3/4 revenue? Defer to **Mr. Burns**. **Mr. Burns** -That is correct-took out 1/4 of tax; a little over \$11M.

Closing by Sponsor:

Rep. Waddill-Lots of soft figures; no way to verify. Not a businessman, but not a lot of incentive to go into a business with only 8.5% profit margin. Here to make hard decisions, this is the way to do it.

Recess for 45 minutes

EXECUTIVE ACTION ON HB11

Motion: **REP. SOMERVILLE** moved that **HB11 DO PASS**.

Discussion: **Rep. Bales** offers **AMENDMENTS:** What this amendment will do is take out any reference to the years 2004, 2005. Put back in law the distribution of funds for those 2 years. 12.5% will be put into special account to pay out October of that year. Proper time to do that is next session in January. **AMENDMENTS PAGE 1, LINE 6.** **Rep. Somerville**-in reference to the Fiscal Note; 0-out the years 2004, 2005. Only impact \$1.2M in 2003. **Rep. Bales**-that is correct. **Rep. Schmidt**-Why did not go for 50% instead of 25% like the timber industry? **Rep. Bales**-Original bill did go for 50% instead of 25%. The bill was heard before appropriations last session, they were already struggling for money and were not willing to do anything. Had to get out of house and put in 0%. **Rep. Forrester**-asks **Rep. Haines** What he thinks of amendment at this time. Will you oppose on floor? **Rep. Haines**-No, I will not oppose. **Rep. Balyeat**-Appropriations had same approach with HB10; when we come back in 2003 with a \$220-250M deficit. Will this "dig us deeper"? Stop having crisis management.

{Tape : 3; Side : B; Approx. Time Counter : 30 - 364}

Rep. Story- I agree with **Rep. Bales**; also agree with **Rep. Balyeat**, it does make a problem in January bigger. **Rep. Forrester**-Legislature made a deal with the counties, say we can renege on deals. How do counties build a sense of trust with the state, when we go back on our word? **Rep. Story**-speaking only to

the amendment. The amendment enforces the original intent of the legislature.

Vote: Motion that HB11 BE AMENDED carried 19-1 with Balyeat voting no.

Motion/Vote: REP. SOMERVILLE moved that HB11 DO PASS AS AMENDED. Motion failed 8-12 with Andersen, Bales, Branae, Carney, Cyr, Devlin, Erickson, Esp, Forrester, Laslovich, Schmidt, and Wanzenried voting nay.

Move to Table, Unanimous, Reverse the Vote.

{Tape : 3; Side : B; Approx. Time Counter : 364 - 424}

EXECUTIVE ACTION ON HB18

Motion: REP. STORY moved that HB18 DO PASS.

Discussion: Rep. Story has amendments. Bulk of amendments are minor; change some wording. #6 has to do with the fee DOR assess the Dept. of Livestock for collection per capital livestock assessments. The fee will be 2% unless agree with on some other percentage. Historically that is the fee the counties have received for administering that collection. Last part renumbers the section. **Jeff Martin-Legislative staffer** -#3-takes out section 1.

{Tape : 3; Side : B; Approx. Time Counter : 424 - 516}

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We're not changing law in this section, it is not required in the bill. #4 technical amendment to DOR. **Judy Paynter-DOR** -this is to make sure that language states very clearly how we are to adjust the base. Re: Marriage license fee. **Rep. Bales to Ms. Paynter** -refers to 2003, averages 2003 and 2004. Why only 2003 instead of 2002 and 2003. **Ms. Paynter** -this is the averaging is in the school area. This is for the counties and the consolidated governments here. **Jeff Martin** -#5-clarification-page 23, #7-negotiated agreement between the Dept. of Livestock and the DOR., #8-filing fees, #9, #10-technical amendments.

Vote: Motion that HB18 BE AMENDED carried unanimously.

Rep. Wanzenreid-explains amendment. Re: property tax increase passed in 2002. Mistake accidentally and resulted in an increase in some people's property taxes. **Rep. Carney**-In favor of amendment. Schools have budgeted according to the amount they

were promised. Too many changes and cuts this close to schools opening. **Rep. Balyeat**-in Missoula County, this amendment would effect your schools to about \$100K. **Rep. Wanzenreid**-Aware of that. **Rep. Balyeat**-do you have any fiscal information as to the overall net effect of this amendment? **Rep. Wanzenreid**-I asked Jeff Martin about that. I have a number-line 16, page 38-to be amended \$54.182,974M. **Rep. Balyeat**-net effect would be \$1.7M negative effect? **Rep. Wanzenreid**-yes. Shifting \$1.1M to property tax payers. **Rep. Story**-understands the intent of amendment. Oppose amendment. **Rep. Wanzenreid**-OPI-Madeline Quinlan-intent of amendment-3 things-adjust school district block grants, page 38, line 16-\$52.407M to \$54.182M. Line 19, line 22-return to levels currently stricken in bill. F.N. page 4-negating the expenditures for county transportation. As is the back fill for the general fund. **Rep. Bales**-opposed to this, page 38, line 12-this would remain part of the language. Growth factor of .76%. **Rep. Balyeat**-Change line 16, page 38 to \$54.182M also go down to lines 19, lines 22 and change those back original dollar amounts. Negative effect on the General Fund. How does that fit with the call of the session. Madeline Quinlan-Offsetting those increases is the guarantee base tax aid; effect guaranteed tax base goes up. **Rep. Balyeat**-Net effect is \$3.1M. Ms.Quinlan-Net effect is to go back to current law. Net effect is 0. **Rep. Balyeat**- net fiscal effect of this amendment is 0. Ms. Quinlan-as to schools, yes. **Rep. Story**-Intent is to take all the school funding out, which this does not do. 2 revenue things in bill-positive \$210K with all the school funding out of bill. **Rep. Waitschies**-Oppose amendment, because his school district is effected. **Rep. Wanzenreid**-Legislature will be back in January and everything is subject to change. More time to analyze. **Rep. Story**-There may be a tax increase. All of these funds carry reserves. They can rebuild their funds over time or put on the taxpayer. **Rep. Wanzenreid**-Close on amendment- Do your districts have reserves? Cut budgets or raise taxes? \$1.1M increase on property taxes if bill goes as is.

Motion/Vote: REP. WANZENREID moved that HB18 BE AMENDED. Motion failed 9-11 with Andersen, Bales, Balyeat, Dale, Devlin, Esp, Fuchs, Jackson, Somerville, Story, and Waitschies voting nay.

Rep. Wanzenreid requests friendly amendment to title of the bill, line 5 and line 6. **Rep. Story** will not accept.

Motion/Vote: REP. STORY moved that HB18 DO PASS AS AMENDED. Motion carried 11-9 with Branae, Carney, Cyr, Erickson, Forrester, Laslovich, Schmidt, Waddill, and Wanzenried voting no.

Motion: REP. WADDILL moved that HB17 DO PASS.

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{Tape : 4; Side : B; Approx. Time Counter : 0}

Rep. Waddill-Substantial difference in the way other states to business. Substantial increase to our General Fund. **Rep. Erickson**- We have a major problem in the next biennium, this bill helps with that too. **Rep. Fuchs**-Speaks in opposition. Numbers not accurate. **Rep. Balyeat**-Opposed; minority cannot defend themselves. Majority can. One of the most "Big" government states in the nation. Fiscal note not accurate. Net effect of bill-net negative effect to General Fund. Drive majority of businesses out of business. Gambling establishments with 5 or less machines. **Rep. Schmidt**-Any information regarding treatment programs. **Rep. Esp**-The programs that Mr. Miller eluded to spends \$100K to the group that he talked about \$23K hot line \$32K newspaper ad, \$8400billboards, 6700\$ tv ads. **Rep. Schmidt**- big problem in state with those that are addicted to gambling. **Rep. Laslovich**-Any idea how many casinos have 5-8 machines? **Rep. Waddill**-1-5 machines-1615, 6-10 machines-3527, 11-15 machines-2574, 16-20 machines-8933. **Rep. Laslovich**-How did you arrive at 5, or 6 or more. **Rep. Waddill**-Arbitrary number. "Mom and Pop" operations get a break. **Rep. Esp**-Sponsor said: we don't have time to get our arms around the things that come up. **Rep. Waddill**-Closing comment-unintended consequences in last sessions. Agree with "targeting minorities". Take the burden off the people that can least afford it. State not tracking profits accurately. Other states have much higher taxes.

Motion/Vote: Motion failed 3-17 with Andersen, Bales, Balyeat, Branae, Cyr, Dale, Devlin, Esp, Forrester, Fuchs, Jackson, Laslovich, Schmidt, Somerville, Story, Waitschies, and Wanzenried voting nay.

Move to Table-Unanimous-Reverse the Vote.

EXHIBIT(tah01a0

5)

{Tape : 4; Side : B; Approx. Time Counter : 0 - 161}

ADJOURNMENT

Adjournment: 2:30 P.M.

REP. BOB STORY, Chair

PAM SCHINDLER, Secretary

BS/PS

EXHIBIT(tah01aad)